IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Crl.Rev.Pet.No. 3579 of 2007()

CRA.593/2001 of ADDL. DISTRICT & SESSIONS COURT FAST TRACK (ADHOC II), KOZHIKODE.
CC.160/1999 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY

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REVN. PETITIONER: REVISION PETITIONER/APPELLANT/ACCUSED:

ABDUL SALAM, SON OF ABDURAHIMAN
(WRONGLY SHOWN AS SO SALIM, S/O.ABDURAHIMAN IN CC.160/99 AND AS S/O. SALIM IN THE APPELLATE JUDGMENT), AGED 31 YEARS, CHAKKITTAMMAL,
P.O. EDAVOOR, POONOOR, KOZHIKODE DISTRICT.

BY ADV. SRI.M.P.MOHAMMED ASLAM

RESPONDENTS: RESPONDENTS/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL. R.P. NO. 3579 OF 2007

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Dated this the 4th day of October, 2007.

ORDER

The revision petitioner, who was the driver of autorickshaw, stands concurrently convicted for the offfences under Sections 279 and 304 A IPC. As against the sentence, simple imprisonment for one year under Section 279 IPC and simple imprisonment for 2 years under Section 304 A IPC imposed by the trial court, the lower appellate court has modified the sentence reducing the same to six months and 1 ½ years respectively.

2. The facts proved in this case are the following:

On 23.07.1998 at about 12 p.m. the accused drove the autorickshaw bearing registration No. KL-11/6529 in a rash and negligent manner so as to endanger human life and the autorickshaw dashed against one Raghavan standing on the road margin of Kozhikode-Wayanad road and sustained fatal injuries. The autorickshaw had capsized over the said Raghavan resulting in his sustaining fatal injuries to which he succumbed at 8 p.m. on 30.07.1998 while undergoing treatment in the Medical College Hospital, Kozhikode.

2. Even though the learned counsel for the revision petitioner assailed the conviction recorded concurrently by the courts below, in as much as the conviction has been entered after a careful evaluation of the oral and documentary evidence, I see a little scope for interference with the conviction recorded. The conviction is accordingly confirmed.

3. What now survives for consideration is the adequacy or otherwise of the sentence imposed on the revision petitioner. Having regard to the fact that the revision petitioner is in custody since 02.08.2007 and the further fact that he is a poor autorickshaw driver, I am of the view that he deserves leniency in sentence. Accordingly, for the conviction under Section 279 IPC, he is sentenced to simple imprisonment for one month and for the conviction under Section 304 A IPC, he is sentenced to simple imprisonment for three months as was awarded by the Apex Court in **Uthem Rajanna v. State of A.P** (2005(11) SCC 53)1. The sentences shall run concurrently. He shall be entitled to set off under Section 428 Cr.P.C.

The revision petition is disposed of accordingly.

V. RAMKUMAR, JUDGE.

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